

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND COMPOUNDING  
PHARMACY, INC. PRODUCTS LIABILITY  
LITIGATION

MDL No. 1:13-md-2419-RWZ

THIS DOCUMENT RELATES TO:

Case No. 1:14-cv-12941-RWZ

**ORDER APPROVING COMPROMISE AND SETTLEMENT OF VIRGINIA  
WRONGFUL DEATH CLAIM PURSUANT TO VA. CODE § 8.01-55**

THIS DAY CAME Petitioners Patricia S. Brown, John D. Spicer, and Jenae S. Patsell, personal representatives and duly qualified as executors of the Estate of Louise D. Spicer, (“Petitioners”), and Respondents Insight Health Corp. (“Insight”), Image Guided Pain Management, P.C., John M. Mathis, M.D., and Robert F. O’Brien, M.D. (collectively “Respondents”), by counsel, pursuant to Va. Code § 8.01-55, as amended, and requested this Court’s consideration and approval of a compromise settlement for a claim for alleged wrongful death against Respondents.

WHEREUPON, after consideration of the Petition for Approval of Compromise Settlement of Virginia Wrongful Death Claim Pursuant to Va. Code § 8.01-55 (“Petition”), Respondents’ Answer to the Petition, the evidence taken during the hearing on the Petition, the representations of counsel and the parties, and, for good cause shown, the Court finds the following:

1. That pursuant to Va. Code § 8.01-55, the parties in interest have either endorsed this Order or been given notice of the hearing and proposed compromise as provided in Va. Code § 8.01-296 and/or Va. Code § 8.01-320;

2. That Petitioners' decedent, Louise B. Spicer ("Decedent"), died on January 22, 2013;

3. That Petitioners Patricia S. Brown, John D. Spicer, and Jenae S. Patsell, duly qualified as the Executors of the Estate of Louise B. Spicer, in the Circuit Court of the City of Roanoke, Virginia, on February 11, 2013;

4. That Decedent's statutory beneficiaries are Patricia S. Brown, John D. Spicer, and Jenae S. Patsell;

5. That Petitioners filed a wrongful death action ("Action") against Respondents, in the Circuit Court for the City of Roanoke, Virginia, on or about May 8, 2013, styled *Patricia S. Brown, John D. Spicer, and Jenae S. Patsell, Executors of the Estate of Louise B. Spicer, Deceased, v. Insight Health Corp., John M. Mathis, M.D., Robert F. O'Brien, M.D., and Image Guided Pain Management, P.C.*, Cir. Ct. of the City of Roanoke, Va., Case No. CL13-607;

6. That Respondents timely responded and denied and continue to deny any and all liability in the Action;

7. That the Action was transferred to MDL 2419 and is now pending in the U.S. District Court for the District of Massachusetts;

8. That Respondents and Petitioners agreed upon a compromise settlement of the Action and related claims in February 2015 as part of a global settlement of the 153 claims asserted in forty-seven separate personal injury and wrongful death cases pending against Respondents in MDL 2419;

9. That the amount and terms of the global settlement are set forth in Settlement and Release Agreement ("Agreement") of February 12, 2015, and the incorporated First Amended Insight Claims Resolution Facility Procedures ("Procedures");

10. That as part of the Agreement, Petitioners and Respondents have agreed to sign a Mutual Release;

11. That, pursuant to the Agreement, Respondents have placed in escrow the total agreed upon settlement amount to be paid to settle the 153 claims asserted in forty-seven personal injury and wrongful death actions which originated in Virginia state court and were transferred to MDL 2419, including Petitioners' claims;

12. That settlement funds will be allocated and distributed to Petitioners pursuant to the Agreement and Procedures to be paid to Decedent's statutory beneficiaries;

13. That the Agreement and Procedures have been approved and confirmed by Judge Boroff of the U.S. Bankruptcy Court for the District of Massachusetts in an order entered May 20, 2015, which confirmed the Chapter 11 bankruptcy plan of New England Compounding Pharmacy, Inc. following overwhelming support from interested parties. *See Findings of Fact, Conclusions of Law and Order Confirming the Third Amended Joint Chapter 11 Plan of New England Compounding Pharmacy, Inc., In re: New England Compounding Pharmacy, Inc., Case No. 12-19882-HJB (Bankr. D. Mass. May 20, 2015) (Doc. No. 1355);*

14. That no appeal from the order approving the Chapter 11 bankruptcy plan of New England Compounding Pharmacy, Inc. has been filed and the order confirming the Chapter 11 bankruptcy plan is now a final order;

15. That Petitioners filed their Petition to approve the compromise settlement with Respondents on or about June 23, 2015;

16. That the manner in which the settlement sum would be distributed to Petitioners pursuant to the Agreement and Procedures has been presented to this Court for review and has been approved by this Court;

17. That Petitioners, individually and by counsel, have represented to the Court that they believe that the Agreement and Procedures are fair, reasonable and in the best interest of the Estate and the statutory beneficiaries, and have requested approval thereof;

NOW, THEREFORE, the Court is of the opinion that the proposed settlement of Petitioners' wrongful death claim and the Agreement and Procedures are fair and reasonable under the circumstances of the Decedent's death and in the best interest of the Estate of Estate of Louise D. Spicer, Deceased, and Decedent's statutory beneficiaries. It is therefore,

ADJUDGED, ORDERED and DECREED that the compromise settlement, as set forth in the Agreement and Procedures, be and is hereby APPROVED, and it is further;

ORDERED that the Agreement between Petitioners and Respondents is hereby approved in its entirety and shall be filed and made a part of the Court's file in this proceeding;

ORDERED that the Mutual Release between the Petitioners and Respondents is hereby approved;

ORDERED that the Procedures to allocate and distribute settlement proceeds to Petitioners are hereby approved;

ORDERED that the proposed fees of Petitioners' counsel and reimbursement of Petitioners' counsel's litigation costs incurred are hereby approved;

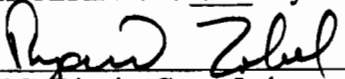
ORDERED that the settlement proceeds shall be allocated and distributed to Petitioners in the manner set forth in the Agreement and the Procedures to be paid to Decedents' statutory beneficiaries, which shall be specified by further order of the Court;

ORDERED that Respondents and their past, present and future officers, directors, stockholders, insurers, attorneys, agents, servants, representatives, employees, parents, subsidiaries, affiliates, partners, subcontractors, predecessors and successors in interest, and

assigns and all other persons, firms or corporations with whom any of the former have been, are now, or may hereafter be affiliated, each acting in their capacity as such, shall be forever released and discharged of any and all liability to the Estate of Louise D. Spicer, Deceased, or any statutory beneficiary entitled by law to any recovery for the injuries, losses, and/or damages arising out of the injury and death of the Decedent as well as from any and all past, present or future claims, demands, obligations, actions, causes of action, wrongful death claims, rights, damages, costs, losses of services, expenses and compensation of any nature whatsoever, whether based on tort, contract, fraud, statutory violation, or other theory of recovery, which Petitioners now have, or which may hereafter accrue or otherwise be acquired, on account of, or may in any way grow out of, or which relate to NECC Claims, as that term is defined in the Agreement.

ORDERED that the Petitioners' suit will be dismissed with prejudice upon entry of a further order of the Court specifying the amount of money to be paid Petitioners and distributed to each statutory beneficiary. The Clerk is directed to forward certified copies of this Order to counsel of record.

ENTERED this 9<sup>th</sup> day of June 2015.

  
\_\_\_\_\_  
U.S. District Court Judge

Date: June \_\_, 2015

Respectfully Submitted

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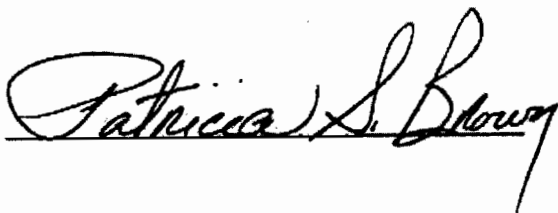
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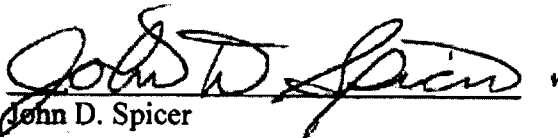
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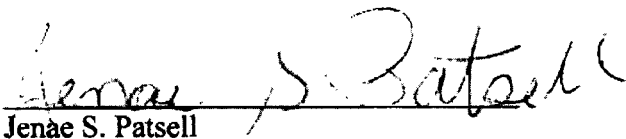
*Counsel for Patricia S. Brown, John D. Spicer, and Jenae S. Paisell, Executors of the Estate of Louise B. Spicer*



**Patricia S. Brown**

  
John D. Spicer



  
Jenae S. Patsell